# CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
# HYDERABAD

REGIONAL BENCH - COURT NO. – I

**Service Tax Appeal No. 27384 of 2013**
(Arising out of **Order-in-Original** No.23/2013-Adjn (Commr) S.T. dated 01.05.2013 passed by Pr. Commissioner of Customs, Central Excise & Service Tax, Hyderabad)

**M/s Swarnandhra IJM II Integrated Township Development Co. Pvt Ltd.,** .. **APPELLANT**
H.No.1-89/1,
Plot No.42 & 43,
Kavuri Hills,
Madhapur,
Hyderabad,
Telangana – 500 081.

*VERSUS*

**Commissioner of Customs, Central Excise and Service Tax Hyderabad - IV** .. **RESPONDENT**
Posnett Bhavan,
Tilak road,
Ramkote,
Hyderabad,
Telangana – 500 001.

**APPEARANCE:**
Shri B. Venugopal, Advocate for the Appellant.
Shri B. Sangameshwar Rao, Authorized Representative for the Respondent.

**CORAM:** **HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)**
**HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)**

**FINAL ORDER No. A/30170/2026**

Date of Hearing: 02.12.2025
Date of Decision: 01.04.2026

**[ORDER PER: ANGAD PRASAD]**

The present appeal has been filed against the Order-in-Original No. 23/2013-Adjn (Commr) S.T. dated 01.05.2013, whereby, the Adjudicating Authority confirmed demand of Service Tax amounting to Rs. 1,47,62,972/- along with interest under Section 75 of the Finance Act, 1994 and penalties under Section 76 and 78 of the Finance Act.

2. The appellant, M/s Swarnandhra IJM II Integrated Township Development Company (P) Ltd., is a joint venture between M/s IJM India Infrastructure Ltd., and M/s Andhra Pradesh Housing Board (APHB) and is engaged in the development of an integrated township project.

3. During the course of audit the Department issued Show Cause Notice dated 24.04.2012 proposing demand of Service Tax on the following grounds:

> a) Consulting Engineer Service received from IJM, Berhad, Malaysia under Reverse Charge Mechanism in terms of Section 66A of the Finance Act, 1994 for the period October 2006 to March 2007, involving Service Tax of Rs. 14,75,972/-.
>
> b) Construction of Complex Service for the period July 2007 to January 2009, involving Service Tax of Rs. 1,32,87,000/-.
>
> c) Service Tax demand to Renting of Immovable Property, which was later draft by the Adjudicating Authority.

4. After adjudication, the Adjudicating Authority confirms the demand relating to Consulting Engineer Services and Construction of Complex Service, along with interest and equal penalty.

5. Aggrieved by the above order, the appellant has filed the present appeal before the Tribunal.

6. Learned Counsel for the appellant submits that the entire construction activity undertaken by the appellant was in the nature of composite of Works Contracts involving transfer of property in goods.

7. Learned Counsel for the appellant further submits that prior to 01.06.2007, there was no specific taxable category or Works Contract Services and therefore, composite contracts could not be vivisected to levy Service Tax under other categories. Learned Counsel for the appellant placed reliance upon the judgment of Hon’ble Supreme Court in the case of

Commissioner of Service Tax Vs L & T Ltd., [2015 (39) STR 913 SC] wherein, it was held that composite Works Contract are taxable only under "Works Contract Service" introduced from 01.06.2007 and not under other taxable categories.

8. Learned Counsel for the appellant further submits that after 01.06.2007, indivisible Works Contract Service are liable only under category of Works Contract Service and not Construction of Complex Service. In this regard Learned Counsel for the appellant reliance placed on foreign decisions:

i) Real Value Promoters (p) Ltd., Vs Commissioner of GST & CE, Chennai [2018-TIOL-2867-CESTAT-MAD]

ii) Navya Constructions Vs Commissioner of Customs, Central Excise & Service Tax, Visakhapatnam – I – Final Order No. A/30225/2023 dated 08.08.2023.

iii) NCC Ltd., Vs Commissioner of Customs, Central Excise & Service Tax – Final Order No. A/30052/2023 dated 13.04.2023.

iv) Ramky Infrastructure Ltd., Vs Commissioner of Central Tax, Visakhapatnam – II – Final Order No. A/30069/2009 dated 07.07.2022.

9. Learned Counsel for the appellant submits that demand regarding Consulting Engineer Services received from IJM, Berhad, Malaysia that the demand is barred by limitation. Since, Department had already issued a Show Cause Notice dated 23.10.2007 on the same issue invoking extended period of limitation. Therefore, a second Show Cause Notice invoking extended period on the same set of facts is not permissible in law. In this regard Learned Counsel for the appellant reliance placed on the judgment of Hon'ble Supreme Court in the case of M/s Nizam Sugar Factory Vs CE [2006 (197) ELT 465 (SC)], wherein, it was held that once the Department is aware of the facts, extended period cannot be invoked repeatedly on the same issue.

10. Learned Counsel for the appellant further submits that during the relevant period there was considerable confusion regarding the levy of Service Tax on merit of services under reverse charge. Learned Counsel for the appellant reliance placed on the decision of the Hon'ble Bombay High Court in the case of Indian National Shipowners Association Vs Union of India [2009 (13) S.T.R. 235 (Bom.)], which was confirmed by the Hon'ble Supreme Court in the case of Union of India Vs Indian National Shipowners Association [2010 (17) S.T.R. J57 (S.C.)], with holding that prior to enactment of Section 66A, Service Tax an export Could not be levied.

11. Learned representative for the Department reiterates the findings recorded in the impugned order and submits that the appellant has failed to discharge Service Tax liability on the services in question and therefore, the demand has been correctly confirmed.

12. We have carefully considered the submissions of both sides and perused the records.

13. It is an admitted that the activities under taken by the appellant involved composite Works Contract including transfer of property in goods.

14. The Hon'ble Supreme Court in Larsen & Toubro Ltd., (supra), has categorically held that indivisible Works Contract cannot be subjected to Service Tax under other taxable categories such as construction service prior to introduction of Works Contract Service on 01.06.2007. Further, even after 01.06.2007 such composite contracts are taxable only under the specific category of Works Contract Service.

15. Therefore, the demand raised under the category of Construction of Complex Service is legally not sustainable.

16. The demand relating Consulting Engineer Service received from IJM, Baherd, Malaysia has been contested primary on grounds of limitation.

17. From the records it is evident that the Department has earlier issued a Show Cause Notice dated 23.10.2007 on the same issue invoking the extended period of limitation. In such circumstances, issuance of another Show Cause Notice invoking extended period of limitation on the same said of facts is not permissible under the law. Hon'ble Supreme Court in the case of M/s Nizam Sugar Factory, supra, has clearly held that once the Department is aware of the facts, extended period cannot be invoked repeatedly. Therefore, the demand raised in present proceedings is barred by the limitation.

18. Further, as the demand itself is not sustainable, the question of interest and imposition of penalties does not arise.

19. In view of the above discussion, the impugned order is set aside.

20. The appeal filed by the appellant is allowed with consequential relief, if any, as per law.

(Pronounced in the open court on 01.04.2026 )

**(A.K. JYOTISHI)**
**MEMBER (TECHNICAL)**

**(ANGAD PRASAD)**
**MEMBER (JUDICIAL)**

Shirisha